

**BEFORE THE KANSAS STATE BOARD OF NURSING**

Landon State Office Building, 900 S.W. Jackson #1051  
Topeka, Kansas 66612-1230

FILED

MAY 10 2010

KSBN

**IN THE MATTER OF  
The Application of  
ROBIN L. WALLACE  
License No. 13-83342-121**

**Case No. 05-1098-5**

**SUMMARY ORDER**

Now this 10<sup>th</sup> day of May 2010, the above matter comes before the Kansas State Board of Nursing (Board) pursuant to authority granted to the Board by K.S.A. 74-1106 and 65-1120. The Board hereby proposes to find facts and deny the registered nurse (RN) reinstatement application of Robin L. Wallace (Applicant) by way of Summary Order as provided by K.S.A. 77-537.

**FINDINGS OF FACT**

1. Applicant was previously licensed to practice nursing in the state of Kansas. Applicant's license to practice nursing in the state of Kansas as a registered nurse lapsed on December 31, 2007. On or about October 13, 2009, the Board received Applicant's application for reinstatement of Applicant's license to practice nursing in the state of Kansas.
2. Applicant's address of record is 10906 W. Haskell Circle, Wichita, KS 67209.
3. With the reinstatement application, Applicant submitted three (3) certificates of completion totalling thirty (30) hours of continuing nursing education (CNE), all dated December 31, 2005. The three courses were the identical titles, course numbers, and dates of CNE as the certificates Applicant submitted with her December 2005 renewal application. Applicant also submitted, without certificates, a list of three online CNE courses with no name, date, or contact hours that appears to have been printed from a provider website on October 9, 2009.
4. At the time Applicant allowed her license to lapse, the Board was investigating a report that Applicant had overmedicated a patient, by placing three fentanyl patches simultaneously on the patient instead of one patch each day for three days, and failed to document medication administration.
5. The Board's investigator had contacted Applicant regarding the allegations. Applicant admitted failing to document medication administration but denied having made the error.
6. The investigation led to discovery of criminal history that Applicant had not disclosed on her initial RN application dated April 9, 1999 or her 2001, 2003, and 2005 renewal applications.
7. Each application asks if the Applicant has ever been convicted of a misdemeanor or felony. On each application, Applicant marked "No."
8. Convictions included two misdemeanor convictions of driving while under the influence in cases from 1989 and 1990 in the Wichita, Kansas, Municipal Court. Both convictions appear

to have been expunged by orders dated April 30, 1999, which was after the date of the initial application but prior to the first renewal application.

9. Certified court records reflect that Applicant was charged with battery and convicted of an amended charge of disorderly conduct in Wichita Municipal Court case number 03C80014.

10. Certified court records reflect that Applicant was charged with battery and obstruction of a law enforcement officer by resisting arrest and convicted of obstruction in Wichita Municipal Court case number 05C3435.

11. In addition, records reflect that Applicant was arrested in 2007 and charged with domestic battery but the charge was dismissed without prejudice. While Applicant was not convicted of a crime, the arrest and filing of the charge indicate, at a minimum, probable cause to believe that Applicant was the physical aggressor in an incident of domestic violence.

12. Based on the investigation, the Board directed that if Applicant submitted a reinstatement application, she should be referred to the [REDACTED] to determine her safety to practice.

13. [REDACTED]

14. The Board's investigator referred Applicant to [REDACTED] on or about February 3, 2010.

15. By letter dated March 23, 2010, [REDACTED] advised Applicant that he [REDACTED] case had been closed because Applicant had not returned release of information forms mailed to her on February 4, 2010, or contacted [REDACTED] about an evaluation.

16. A pattern of alcohol-related offenses, battery, disorderly conduct, and resisting arrest over a period of eight years, ending with the arrest in 2007, give rise to a reasonable concern that Applicant is unable to govern her conduct because of substance abuse or mental health issues, and Applicant's refusal to submit to evaluation supports this conclusion. The Board acted reasonably in requiring evaluation as a prerequisite to reinstatement.

#### **CONCLUSIONS OF LAW**

17. "The board shall examine, license and renew licenses of duly qualified applicants and conduct hearings upon charges for limitation, suspension or revocation of a license or approval of professional and practical nursing and mental health technician programs and may limit, deny, suspend or revoke for proper legal cause, licenses or approval of professional and practical nursing and mental health technician programs, as hereinafter provided." K.S.A. 74-1106(c)(4).

18. The Board may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization upon making any of the findings listed in K.S.A. 65-1120(a).

19. The Board has jurisdiction over the Applicant and the subject matter of this action.

20. "Any applicant whose Kansas license has lapsed may, within five years of its expiration date, reinstate that license by submitting satisfactory proof that the applicant has obtained 30 contact hours of approved continuing nursing education within the preceding two-year period." K.A.R. 60-3-105(a).

21. The CNE certificates included with Applicant's reinstatement application are not satisfactory proof that the applicant has obtained the required CNE within two years prior to the application. Therefore, Applicant does not meet the minimum requirements for reinstatement.

22. The Board may deny Applicant's reinstatement application based on K.S.A. 65-1120(a)(1), to be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing, to wit: Applicant has multiple misdemeanor convictions yet on all five applications for issuance or renewal of her nursing license she denied ever having been convicted of a misdemeanor, or in the alternative, K.S.A. 65-1120(a)(6), unprofessional conduct as defined by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board, to wit: to disclose criminal convictions on the initial application, the 2001, 2003, and 2005 renewal applications, or the current reinstatement application.

23. The Board may deny Applicant's reinstatement application based on K.S.A. 65-1120(a)(4), to be unable to practice with skill and safety due to current abuse of drugs or alcohol, or in the alternative, K.S.A. 65-1120(a)(3), professional incompetency, as defined by K.S.A. 65-1120(e)(3), a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

24. The Board may deny Applicant's reinstatement application based on K.S.A. 65-1120(a)(6), unprofessional conduct as defined by K.A.R. 60-3-110(d), inaccurately recording, falsifying, or altering any record of a patient or agency or of the board, to wit: failure to document medication administration.

25. K.S.A. 77-511(a)(2)(A) and 77-537 of the Kansas Administrative Procedure Act authorize the use of summary proceedings by a state agency if the use of summary proceedings does not violate any provision of law, the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties, and the agency believes in good faith, after investigation, that the allegations will be supported to the applicable standard of proof.


26. The role of the Kansas State Board of Nursing is to protect citizens of Kansas, and the proposed action furthers that purpose.

**IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF NURSING THAT Applicant's reinstatement application to practice nursing in the state of Kansas is DENIED.**

**Notice of Right to Hearing:** Pursuant to K.S.A. 77-537, this decision, which is called a Summary Order, is subject to your request for a hearing. If you desire a hearing, you must submit or direct a written request for hearing to: Kansas State Board of Nursing, Legal Division, 900 SW Jackson, Suite 1051, Topeka, Kansas 66612-1230, (785) 296-4325. THIS REQUEST MUST BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE DATE OF THIS ORDER. If a hearing is not requested in the time and manner stated, this Summary Order becomes

effective as a final order, without further notice, upon the expiration of the time for requesting a hearing.

Pursuant to K.S.A. 77-531, if the Summary Order is served by mail, three days are added to the time limits set out above.

  
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Janet Jacobs, LPN  
Investigative Committee, Chair  
Kansas State Board of Nursing

CERTIFICATE OF SERVICE

I certify that on the 10<sup>th</sup> day of May, 2010, a true and correct copy of the foregoing Summary Order was deposited in the United States Mail, first-class postage prepaid, addressed to the following:


Robin L. Wallace  
10906 Haskell Cr  
Wichita, KS 67209

  
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Brenda J. Clary  
Assistant Attorney General

CERTIFICATE OF SERVICE

I certify that on the 30th day of June, 2010, the foregoing copy of the Summary Order was served by depositing the same in the United States Mail, first-class postage prepaid, addressed to the following:

Robin L. Wallace  
10906 Haskell Cr  
Wichita, KS 67209



Alma A. Heckler, #11555  
Assistant Attorney General